IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3441 OF 2002

IN

SUIT NO.3820 OF 2002

Canara Bank .. Plaintiffs

Vs.

Hemand H.Shah and Anr. .. Defendants

Mr.Shivanand Nandedkar i/b H.Janardhanan for the plaintiffs

Mr.Vipul Shukla for the defendants

CORAM : S.U.KAMDAR, J
DATED : 25TH AUGUST, 2005

P.C.:

. The present motion is taken out for injunction in respect of flat no.8, Paresh Niketan, 11th Road, Santacruz (E), Mumbai 400 055. By prayer (b), the plaintiffs are also seeking order for disposal of equity shares of Canara Bank and by prayer (c) for appointment of Court Receiver in respect of suit flat premises. It is an admitted position that in so far as equity shares are concerned, they are pledged with the bank and the

bank has disposed of the same. Thus prayer (b) does not survive. In so far as prayer clause (a) and (c) are concerned, they are sought for as an attachment before judgment because the suit flat is admittedly not a security to the Bank. The suit is only for money decree. Admittedly there are no ad interim orders passed from 2002 onwards in the present Notice of Motion and inspite of the same the said flat is not sold. It thus indicates that the averments made in para 11 of the plaint are not correct on the basis of which attachment before judgment is sought. In that view of the matter, no orders are necessary. The learned counsel for the plaintiffs states that as per direction dt.11.3.05 he has already given necessary details to the plaintiffs and filed affidavit dt.15.3.05. In view thereof, motion does not survive. The same is dismissed accordingly.